

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

IN RE:	§	Case No. 22-60043
	§	
FREE SPEECH SYSTEMS, LLC,	§	Chapter 11 (Subchapter V)
	§	
Debtor.	§	

**EXHIBIT D**

XO6 UWY CV18-6046436-S : SUPERIOR COURT  
ERICA LAFFERTY, ET AL : JUDICIAL DISTRICT OF WATERBURY  
V : AT WATERBURY, CONNECTICUT  
ALEX EMRIC JONES, ET AL : NOVEMBER 15, 2021

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XO6 UWY CV18-6046437-S : SUPERIOR COURT  
WILLIAM SHERLACH, ET AL : JUDICIAL DISTRICT OF WATERBURY  
V : AT WATERBURY, CONNECTICUT  
ALEX EMRIC JONES, ET AL : NOVEMBER 15, 2021

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XO6 UWY CV18-6046438-S : SUPERIOR COURT  
WILLIAM SHERLACH, ET AL : JUDICIAL DISTRICT OF WATERBURY  
V : AT WATERBURY, CONNECTICUT  
ALEX EMRIC JONES, ET AL : NOVEMBER 15, 2021

**COURT'S RULING**

B E F O R E:

THE HONORABLE BARBARA N. BELLIS, JUDGE

**A P P E A R A N C E S:**

Representing the Plaintiffs:

ATTORNEY CHRISTOPHER MATTEI  
ATTORNEY ALINOR STERLING  
ATTORNEY MATTHEW BLUMENTHAL  
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Representing the Defendants:

ATTORNEY JAY MARSHALL WOLMAN  
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ATTORNEY CAMERON L. ATKINSON  
Pattis & Smith  
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Recorded and Transcribed By:  
Patricia Sabol  
Court Monitor  
400 Grand Street  
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1 THE COURT: All right. So I will order a copy of  
2 the transcript of the following ruling, and I will  
3 sign it and I will place it in the court file as my  
4 decision for the purposes of any appeal.

5 So I'll first address the Clinton deposition  
6 issue and the conduct of July 1, 2021. In the July  
7 19, 2021 court filing by the defendants Infowars, LLC,  
8 Free Speech Systems, LLC, Infowars Health, LLC and  
9 Prison Planet, LLC, they described how in the motion  
10 to depose Hillary Clinton, testimony designated by the  
11 plaintiffs as highly confidential was filed in the  
12 Clinton deposition motion. They explained that this  
13 was done because in their opinion, the plaintiffs did  
14 not have a good-faith basis to designate the  
15 deposition as highly confidential before the  
16 deposition had commenced, despite the fact that the  
17 Jones defendants had previously done so themselves.  
18 And it is not lost on the Court that the highly  
19 confidential information was improperly filed in the  
20 middle of the first deposition of a plaintiff.

21 The July 19, 2021 filing is in sharp contrast to  
22 the Jones defendants' position at the October 20, 2021  
23 sanctions hearing where the Court addressed what, if  
24 any, sanctions should enter. At the October 20  
25 hearing, the Jones defendants claim they could publish  
26 confidential information as long as they did not  
27 reveal the name of the witness. That is, they argued

1 unconvincingly that they didn't understand the very  
2 protective order that they themselves drafted and  
3 asked the Court to approve as a Court order, which the  
4 Court did.

5 The position of the Jones defendants at the  
6 October 20, 2021 sanctions hearing did nothing but  
7 reinforce the Court's August 5th, 2021 order and  
8 findings that the cavalier actions on July 1st, 2021  
9 constituted willful misconduct and violated the  
10 Court's clear and unambiguous protective order.

11 The history of the attorneys who have appeared  
12 for the defendants, Alex Jones, Infowars, LLC, Free  
13 Speech Systems, LLC, Infowars Health, LLC and Prison  
14 Planet TV, LLC is a convoluted one, even putting aside  
15 the motions to withdraw appearance, the claims of  
16 conflict of interest and the motions for stay advanced  
17 by these five defendants.

18 As the record reflects, on June 28, 2018,  
19 Attorney Wolman appeared for all five of the Jones  
20 defendants. Eight months later, on March 1st, 2019,  
21 Attorney Wolman is out of the case and Pattis & Smith  
22 filed an in-lieu-of appearance for all five  
23 defendants. On February 24, 2020, Attorney Latonica  
24 also appeared for all five defendants. Five months  
25 later on July 7, 2020, Attorney Latonica and Pattis &  
26 Smith is now out of the case and Attorney Wolman is  
27 back in the case for all five defendants. Then on



1 June 28, 2020, Pattis and Smith is back in the case,  
2 but now only appears for the four LLC defendants.

3 But what is perhaps more significant is the  
4 transparent attempt to cloud the issues by Pattis &  
5 Smith, for example, by listing the names of only three  
6 of the four clients they represent when filing the  
7 motion to take the deposition of Hillary Clinton and  
8 then listing all four clients in the July 19, 2021  
9 filing relating to the issue. And by Attorney Wolman  
10 who then argued in his October 20, 2021 file that  
11 Infowars, LLC had no involvement in the motion for  
12 commission because their lawyer did not list their  
13 name on the motion. It is simply improper under our  
14 rules of practice for an attorney to do so.

15 Turning to the issue of the subsidiary ledgers.  
16 The five Jones defendants on November 6, 2020 filed  
17 with the Court their discovery objections relating to  
18 the deposition of Free Speech Systems' accounting  
19 manager and current employee, Melinda Flores. In  
20 response to the plaintiff's request for subsidiary  
21 ledgers, the Jones defendants objected on the basis  
22 that the production of the subsidiary ledgers was  
23 oppressive, unduly burdensome, disproportionate,  
24 harassing and that it will require digging through  
25 eight years of accounting. No objection was raised as  
26 to the term "subsidiary ledger", although parties  
27 frequently will object to a discovery request if they

1 consider it vague or confusing.

2 On April 29, 2021, the Court overruled the  
3 objection. On May 6, 2021, the Court ordered the  
4 deposition of Flores to take place on June 4, 2021 and  
5 ordered the documents to be produced by the close of  
6 business on May 14, 2021 stating that failure to  
7 comply may result in sanctions.

8 On May 14, 2021, the five Jones defendants  
9 responded to the document request and Court order and  
10 stating that the subsidiary ledgers were incorporated  
11 into the trial balances and had been produced.

12 At her June 4, 2021 deposition, Flores, the  
13 accounting manager, testified that subsidiary ledgers  
14 or detail was easily accessible and available to her.  
15 She testified that it would show the sources of  
16 advertising income and she testified repeatedly that  
17 Free Speech Systems maintained subsidiary ledger  
18 information. Flores did not believe she was obligated  
19 to produce the subsidiary ledgers, and it is unclear  
20 as to whether they have been produced.

21 It was impossible to reconcile the expert hired  
22 by Free Speech Systems with the November 6, 2020  
23 objections filed with the Court and with Flores'  
24 deposition testimony. While the Jones defendants in  
25 their May 5th, 2021 motion state that Flores would be  
26 the best employee to identify and produce the  
27 requested documents and further state that Flores

1 would be compelled by Free Speech Systems to produce  
2 the requested documents at the deposition, the  
3 defendants hired expert, Mr. Roe, said that Flores was  
4 wrong and that Free Speech Systems doesn't use or have  
5 subsidiary ledgers.

6 The Court, in its August 6, 2021 order, found  
7 that the subsidiary ledger information was easily  
8 accessible by Flores by clicking on each general  
9 account, that, despite the Court orders and although  
10 the information exists and is maintained by Free  
11 Speech Systems and was required by the Court order to  
12 be produced, it had not been produced. And, again, it  
13 is still unclear as to what documents have been  
14 produced.

15 The Court rejected Roe's statements in his  
16 affidavit as not credible in light of the  
17 circumstances. The Court found that the plaintiffs  
18 were prejudiced in their ability to prosecute their  
19 claims and conduct further meaningful depositions and  
20 that sanctions would be addressed at a future hearing.

21 At the October, 2021 sanctions hearing, the Court  
22 addressed whether sanctions should enter. The Court  
23 finds that sanctions are, in fact, appropriate in  
24 light of the defendant's failure to fully and fairly  
25 comply with the plaintiff's discovery request and the  
26 Court's orders of April 29, 2021, May 6, 2021 and  
27 August 6, 2021.



1           Turning to the trial balances. In addition to  
2           objecting to the deposition of Flores, the Jones  
3           defendants, as I mentioned, filed discovery objections  
4           to the request for production directed to Flores. The  
5           Court ruled in favor of the defendants on one  
6           production request and ruled in favor of the  
7           plaintiffs with respect to others.

8           In addition to the subsidiary ledgers, the Court  
9           ordered production of the trial balances. Flores had  
10          run trial balances in the past unrelated to this  
11          action. Flores testified at her June 4, 2021  
12          deposition that she personally accessed Quick Books  
13          and selected the option to generate trial balances for  
14          2012 to 2019. She testified that she ran the reports  
15          and printed them out and believed that the reports  
16          were produced. Her testimony the reports that she ran  
17          were produced was left uncorrected by counsel at the  
18          deposition.

19          The reports were not produced by the  
20          Court-ordered deadline of May 14, 2021. They were not  
21          produced at her June 4, 2021 deposition, and they have  
22          not been produced to date, despite their obligation to  
23          do so.

24          While the Jones defendants, in their May 5, 2021  
25          Court filing, emphasized that Flores would be the best  
26          employee to identify and produce the requested  
27          documents which would include the trial balances and

1           that Flores would be compelled by Free Speech Systems  
2           to produce the documents at her deposition, not only  
3           were the reports not produced, but the Jones  
4           defendants in their October 7, 2021 filing now claim  
5           that Flores, a mere bookkeeper, provided flawed  
6           information to the defendants that the defendants,  
7           through Roe, had to correct. And the Court rejects  
8           that position.

9           The Jones defendants argue that Roe combined some  
10          accounts that were not used consistently and  
11          consolidated some general accounts because various  
12          transactions all involved the same account and those  
13          records created by the Jones defendants' outside  
14          accountant were the records that were produced. But  
15          these records that removed accounts and consolidated  
16          accounts altered the information in the reports that  
17          their own accounting manager had produced, and they  
18          contain trial balances that did not balance. These  
19          sanitized, inaccurate records created by Roe were  
20          simply not responsive to the plaintiff's request or to  
21          the Court's order.

22          Turning to the analytics. The date for the  
23          parties to exchange written discovery has passed after  
24          numerous extensions by the Court. On May 14, 2021,  
25          the Court ordered that the defendants were obligated  
26          to fully and fairly comply with the plaintiff's  
27          earlier request for disclosure and production.

1           On June 1, 2021, the defendants filed an  
2           emergency motion for protective order apparently  
3           seeking protection from the Court's own order where  
4           the defendants again attempted to argue the scope of  
5           appropriate discovery.

6           The Court, on June 2, 2021, declined to do so and  
7           extended the deadline for final compliance to June 28,  
8           2021 ordering the defendants to begin to comply  
9           immediately on a rolling basis. In its June 2nd  
10          order, the Court warned that failure to comply would  
11          result in sanctions including default.

12          With respect to analytics, including Google  
13          Analytics and social media Analytics, the defendants  
14          on May 7, 2019 represented that they had provided all  
15          the analytics that they had. They stated with respect  
16          to Google Analytics that they had access to Google  
17          Analytics reports, but did not regularly use them. As  
18          the Court previously set forth in its September 30,  
19          2021 order, the defendants also claim that on June 17,  
20          2019, they informally emailed zip files containing  
21          Google Analytics reports to the plaintiffs, but not  
22          the codefendants, an email the plaintiffs state they  
23          did not receive and that the Court found would not  
24          have been in compliance with our rules of practice.

25          On June 28, 2021, the Jones defendants filed a  
26          notice of compliance stating that complete final  
27          supplemental compliance was made by the defendants,



1 Alex Jones and Free Speech Systems, LLC and that  
2 Infowars, LLC, Infowars Health, LLC and Prison Planet,  
3 LLC, quote: Had previously produced all documents  
4 required to be produced, end quote, representing that  
5 with respect to the Google Analytics documents, Free  
6 Speech Systems, LLC could not export the dataset and  
7 that the only way they could comply was through the  
8 sandbox approach.

9 Then on August 8, 2021, the Jones defendants for  
10 the first time formally produced Excel spreadsheets  
11 limited to Google Analytics apparently for Infowars  
12 dot com and not for any of the other websites such as  
13 Prison Planet TV or Infowars Health. Importantly, the  
14 Jones defendants to date have still not produced any  
15 analytics data from any other platform such as Alexa,  
16 Comcast or Criteo.

17 The Jones defendants production of the social  
18 media analytics has similarly been insubstantial and  
19 similarly has fallen far short both procedurally and  
20 substantively, despite prior representations by the  
21 Jones defendants that they had produced the social  
22 media analytics and despite the May 25, 2021  
23 deposition testimony of Louis Certucci, Free Speech  
24 Systems social media manager for nearly a decade, that  
25 there were no such documents.

26 At the June 28, 2021 deposition of Free Speech  
27 Systems corporate designee Zimmerman, Mr. Zimmerman



1 testified that, in fact, he had obtained some  
2 responsive documents from Certucci which were then  
3 loaded into a deposition chat room by counsel for the  
4 Jones defendants. It appears that these documents  
5 were minimal summaries or reports for Facebook and  
6 Twitter, but not for other platforms used by the  
7 defendants such as You Tube.

8 Any claim of the defendants that the failure to  
9 produce these documents was inadvertent falls flat as  
10 there was no evidence submitted to the Court that the  
11 defendants had a reasonable procedure in place to  
12 compile responsive materials within their power,  
13 possession or knowledge.

14 Months later, on October 8, 2021, the Jones  
15 defendants formally produced six documents for the  
16 spring of 2017 for Facebook containing similar  
17 information to the Zimmerman chat room documents, but  
18 not included in the chat room documents and screen  
19 shots of posts by Free Speech Systems to an  
20 unidentified social media account with no analytics.

21 The defendants represented that they had produced  
22 all the analytics when they had not done so. They  
23 represented in court filings that they did not rely on  
24 social media analytics and this, too, is false.

25 I'm going to need to take a thirty second water  
26 break, please.

27 (A short break in the proceedings occurred.)

1           This response was false. The plaintiffs in  
2 support of their motion for sanctions on the analytics  
3 issue attached as exhibit D, an email dated December  
4 15, 2014 between former Free Speech Systems business  
5 manager Timothy Fruge and current Free Speech Systems  
6 employee Buckley Hamman. Fruge attaches annotated  
7 charts of detailed analytics concerning Jones' 2014  
8 social media audience including gender demographics  
9 engagement and social media sites that refer people to  
10 Infowars dot com. As pointed out by the plaintiffs,  
11 Fruge's annotations are even more telling than the  
12 charts themselves and totally contradict the Jones  
13 defendants misrepresentations to the Court that,  
14 quote: There is no evidence to suggest that Mr. Jones  
15 or Free Speech Systems ever used these analytics to  
16 drive content, end quote.

17           The next image on the document shows key  
18 indicators on Twitter. Those are engagement and  
19 influence. Again, this is reading from Fruge's notes.  
20 Again, the next image shows the key indicators on  
21 Twitter. Those are engagement and influence. Notice  
22 our influence is great and our engagement is low. I  
23 bring this up -- again these are Fruge's notes --  
24 because we should try and raise our engagement with  
25 our audience. Engagement is how well we are  
26 communicating and interacting with our audience. The  
27 higher our engagement, the more valuable our audience

1 will become to our business. And that is the end of  
2 Fruge's notes.

3 I would note that regardless of this reliance on  
4 social media analytics, the concept is simple. The  
5 defendants were ordered to produce the documents and  
6 our law requires them to produce information within  
7 their knowledge, possession or power. Discovery is  
8 not supposed to be a guessing game. What the Jones  
9 defendants have produced by way of analytics is not  
10 even remotely full and fair compliance required under  
11 our rules.

12 The Court finds that the Jones defendants have  
13 withheld analytics and information that is critical to  
14 the plaintiff's ability to conduct meaningful  
15 discovery and to prosecute their claims. This callous  
16 disregard of their obligations to fully and fairly  
17 comply with discovery and Court orders on its own  
18 merits a default against the Jones defendants.

19 Neither the Court nor the parties can expect  
20 perfection when it comes to the discovery process.  
21 What is required, however, and what all parties are  
22 entitled to is fundamental fairness that the other  
23 side produces that information which is within their  
24 knowledge, possession and power and that the other  
25 side meet its continuing duty to disclose additional  
26 or new material and amend prior compliance when it is  
27 incorrect.



1           Here the Jones defendants were not just careless.  
2           Their failure to produce critical documents, their  
3           disregard for the discovery process and procedure and  
4           for Court orders is a pattern of obstructive conduct  
5           that interferes with the ability of the plaintiffs to  
6           conduct meaningful discovery and prevents the  
7           plaintiffs from properly prosecuting their claims.

8           The Court held off on scheduling this sanctions  
9           hearing in the hopes that many of these problems would  
10          be corrected and that the Jones defendants would  
11          ultimately comply with their discovery obligations and  
12          numerous Court orders, and they have not.

13          In addressing the sanctions that should enter  
14          here, the Court is not punishing the defendants. The  
15          Court also recognizes that a sanction of default is  
16          one of last resort. This Court previously sanctioned  
17          the defendants not by entering a default, but by a  
18          lesser sanction, the preclusion of the defendant's  
19          special motions to dismiss. At this point entering  
20          other lesser sanctions such as monetary sanctions, the  
21          preclusion of evidence or the establishment of facts  
22          is inadequate given the scope and extent of the  
23          discovery material that the defendants have failed to  
24          produce.

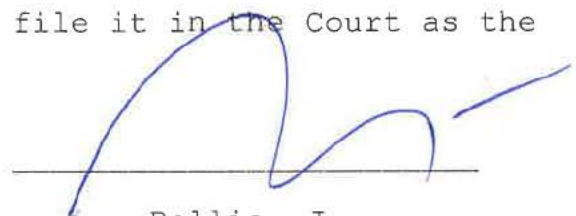
25          As pointed out by the plaintiffs, they are  
26          attempting to conduct discovery on what the defendants  
27          publish and the defendants' revenue. And the failure



1 of the defendants to produce the analytics impacts the  
2 ability of the plaintiffs to address what is published  
3 and the defendants failure to produce the financial  
4 records such as sub-ledgers and trial balances affects  
5 the ability of the plaintiffs to address the  
6 defendants' revenue. The prejudice suffered by the  
7 plaintiffs, who had the right to conduct appropriate,  
8 meaningful discovery so they could prosecute their  
9 claims again, was caused by the Jones defendants  
10 willful noncompliance, that is, the Jones defendants  
11 failure to produce critical material information that  
12 the plaintiff needed to prove their claims.

13 For these reasons, the Court is entering a  
14 default against the defendants Alex Jones, Infowars,  
15 LLC, Free Speech Systems, LLC, Infowars Health, LLC  
16 and Prison Planet TV, LLC. The case will proceed as a  
17 hearing in damages as to the defendants. The Court  
18 notes Mr. Jones is sole controlling authority of all  
19 the defendants, and that the defendants filed motions  
20 and signed off on their discovery issues jointly. And  
21 all the defendants have failed to fully and fairly  
22 comply with their discovery obligations.

23 As I said, I will order a copy of the transcript.  
24 I will sign it and I will file it in the Court as the  
25 Court's order.

26   
27

Bellis, J.

1 XO6 UWY CV18-6046436-S : SUPERIOR COURT.  
 2 ERICA LAFFERTY, ET AL : JUDICIAL DISTRICT OF WATERBURY  
 3 V : AT WATERBURY, CONNECTICUT  
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 14 ALEX EMRIC JONES, ET AL : NOVEMBER 15, 2021

15

16 C E R T I F I C A T I O N

17 I hereby certify the foregoing pages are a true and  
 18 correct transcription of the audio recording of the  
 19 above-referenced case, heard in the Superior Court, Judicial  
 20 District of Waterbury, at Waterbury, Connecticut, before the  
 21 Honorable Barbara N. Bellis, Judge, on the 15th day of  
 22 November, 2021.

23 Dated this 15th day of November, 2021, in Waterbury,  
 24 Connecticut.

25 

26

Patricia Sabol

27

Court Monitor